

Executive Summary Form

Agenda Number: HLT—

Public Health Emergency Preparedness Program-Health Department:

Memoranda of Understanding for Cold Storage of Human Remains during a Mass Fatality Event

Recommendation:

Approve the new Memorandum of Understanding between Joan Werner, property owner of 42 Main Street in Bisbee, and Cochise County for the purpose of providing cold storage of human remains, with dignity and respect. The human remains shall be appropriately stored until such time as internment can be arranged or the remains may be transferred to the Medical Examiner's Office. This MOU will only be evoked in the event of a disaster or emergency resulting in mass fatalities in Cochise County.

Background (Brief):

Since February of 2009 the Board of Supervisors has sanctioned 46 original Memoranda of Understanding between various local agencies and Cochise County's Public Health Emergency Preparedness Program. The purpose and intent of all these MOU's is to enhance the public health emergency preparedness of our community through engagement of local partners in providing space or services to assist the County in emergency situations. This is the sole MOU for Mass Fatality storage capacity.

This MOU with Joan Werner has been reviewed and approved by the County Attorney's Office and their assistance with this effort is greatly appreciated.

Fiscal Impact & Funding Sources:

Since this is a grant funded endeavor, there is no additional fiscal impact to the County.

Next Steps/Action Items/Follow Up:

The approval of the Board of Supervisors is respectfully requested.

Impact of Not Approving:

Cochise County will not be able to provide cold storage of human remains at this location in case of a disaster or mass fatality event.

MEMORANDUM OF UNDERSTANDING BETWEEN COCHISE COUNTY AND

This Memorandum of Understanding ("MOU") is entered into between Cochise County, a political subdivision of the State of Arizona, hereinafter referred to as "County", and Joan Werner, whose facility is located at 42 Main Street in Bisbee in Cochise County, Arizona.

WHEREAS, the County is tasked by statute with responding to intentional, accidental, and/or natural incidents resulting in a number of fatalities so as to overwhelm the existing resources for the storage capacity of dead bodies within the County and requiring the need for mass fatality storage until such time as interment can be arranged or transfer to the Medical Examiner's facility. Joan Werner, property owner of 42 Main Street, desires to provide assistance by allowing the County to utilize the cold storage facility during such an incident and

WHEREAS, for the purpose of this MOU, the County desires to provide mass fatality storage so as to allow for the proper disposal of the human remains with dignity and respect. Property owner, Joan, Werner, desires to render the facility dedicated for emergency storage of human remains during such event as necessary and until the disaster is mitigated.

NOW, THEREFORE, the parties agree as follows:

A. The County Shall:

1. Designate the principal contact person for this MOU as:

Title: Local Health Officer or Bioterrorism Preparedness Program Director.

Address: 1415 Melody Lane, Building A, Bisbee, AZ 85603

Phone numbers: 520-432-9437 or 1-800-423-7271

This contact information shall be kept updated in order to remain current throughout the term of this MOU.

2. Notify the property owner of 42 Main Street, Joan Werner, as soon as practicable, upon determination of the need for mass fatality cold storage as set out in this MOU.
3. Provide environmental health sanitation inspections for the 42 Main Street property.
4. Provide restoration of the cold storage facility after the event is mitigated.

B. The Property Owner, Joan Werner, Shall:

1. Designate the principal contact person for this MOU as:

Title: Joan Werner , Property Owner

Address: 42 Main Street, Bisbee Arizona 85603

Phone numbers: 520-432-9976

This contact information shall be kept updated in order to remain current throughout the term of this MOU.

2. Provide 24/7 access to and use of the cold storage facility during a mass fatality emergency for as long as the event warrants.
3. Allow use of 42 Main Street property parking spaces for the disaster event.
4. Provide cold storage for deceased as long as emergency situation warrants and suspend regularly scheduled cold storage functions, if necessary, for the duration of the emergency.
5. Provide cold storage facilities to include, but not be limited to, adequate space, utilities, sanitary conditions, and cold storage ability in support of mass fatality events in Cochise County.

C. Term

The initial term of this MOU shall be for five (5) years, and the agreement shall be automatically renewed for additional five (5) year periods at the end of each five (5) year term, unless otherwise terminated pursuant to paragraph E.

D. Agreement Amendment

The parties to this MOU may amend, modify, or supplement this MOU in writing at any time by mutual consent. All other unaffected provisions set forth in this MOU shall remain in effect.

E. Termination

Either party may terminate this MOU at any time, with thirty (30) days notice in writing, to the other party. Such notice shall be given by personal delivery or by registered or certified mail at the other party's official mailing address.

F. Insurance

The County agrees to maintain liability insurance coverage, and to immediately inform the other party of a cancellation or decrease in coverage. Joan Werner agrees that it will maintain all existing liability insurance coverage for all of its personnel, land, buildings, equipment and physical assets applicable to the function of this MOU during the time when this MOU is in force and utilized.

G. Indemnity

Each party (as indemnitor) agrees to indemnify, defend and hold harmless the other party (as indemnitee) from and against any and all claims, losses, liability, costs, or expenses, including reasonable attorneys fees, arising out of bodily injury or death of any person, or any property damage, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are not caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees or volunteers in the performance of this MOU.

H. Licensure

Joan Werner agrees to maintain all current licenses and permits applicable to the function of this MOU during the time when this MOU is in force and utilized. If required, County shall obtain emergency licenses or permits required for its operations.

I. Miscellaneous Provisions

1. **Assignment.** This MOU is non-assignable in whole or in part by either party without the written consent of the other party.
2. **Authority of Signatory.** Each individual executing this MOU on behalf of either party represents and warrants that he/she is duly authorized to execute and deliver this Agreement on behalf of the County or Joan Werner.
3. **Cancellation.** This MOU is subject to cancellation for conflict of interest without penalty or further obligation as provided by A.R.S. § 38-511.
4. **Entire Agreement.** This MOU and any attachments represent the entire agreement between the parties and supersede all prior negotiations, representations or agreements, whether express or implied, written or oral.

5. **Governing Law and Venue.** The terms and conditions of this MOU shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either party for the purpose of enforcing a right or rights provided for in this Agreement shall be tried in the Superior Court of Cochise County, State of Arizona. The parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county. In the event either party shall bring suit to enforce any term of this Agreement or to recover any damages for on account of the breach of any term or conditions of this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs including: all litigation and appeal expenses, collection expenses, reasonable attorneys' fees, necessary witness fees and court costs to be determined by the court in such action.
6. **Incorporation of Documents.** All documents referred to in this MOU are hereby incorporated by reference into the MOU.
7. **Integration.** This MOU contains the entire arrangement between the parties. No statement, promise or inducement made by either party that is not contained in this written MOU and signed by both parties shall be valid or binding.
8. **No Third Party Beneficiaries.** Only the parties may enforce this MOU. The parties do not intend through this MOU to confer enforceable rights on any non-party and do not intend to create any third party beneficiaries to this MOU.
9. **Notices.** Any notice or demand under this MOU from either party to the other shall be in writing and shall be deemed to have been given when the notice is delivered personally or deposited in a U.S. mailbox, in a stamped envelope addressed to the other party's official business address provided herein. Either party may at any time change such address by delivering or mailing, as aforesaid, to the other party a notice stating the change.

County

**Cochise County Health Department
1415 Melody Lane
Bisbee, AZ 85603
(520) 432-9437**

Joan Werner

**Property Owner
P.O. Box 317
Bisbee, Arizona 85603
(520) 432-9976**

10. **Section Headings.** Captions and section headings used herein are for convenience only, are not a part of this MOU, shall not be deemed to limit or alter any provisions hereof, and shall not be deemed relevant in construing this MOU.

11. **Severability.** The provisions of this MOU shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of any other provisions.
12. **Waiver of Terms and Conditions.** The failure of either party to insist on any one or more instances of performance of any of the terms of conditions of this MOU or to exercise any right or privilege contained herein shall not be considered as thereafter waiving such terms, conditions, rights or privileges, and they shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the date and year specified below.

DATED: _____

COCHISE COUNTY:

Richard R. Searle, Chairman
Board of Supervisors

ATTEST:

Katie A. Howard, Clerk of the Board

APPROVED AS TO FORM:



Terry Bannon, Deputy County Attorney

DATED: _____

Property Owner:



Joan Werner